

1 Elon Berk, Esq. [SBN 209642]
2 **GUROVICH, BERK & ASSOCIATES, APC**
3 15250 Ventura Blvd., Suite 1220
4 Sherman Oaks, California 91403
5 Tel: (818) 205-1555
6 Fax: (818) 205-1559
7 Attorney for Defendant
8 **Andrey kuzenny**

9 **UNITED STATES BANKRUPTCY COURT**
10 **EASTERN DISTRICT OF WASHINGTON**

11 In re:)	Case No.: 18-03197 FPC 11
12 GIGA WATT, a Washington)	[Assigned to the Hon. Fredrick P.
13 Corporation)	Corbit for all purposes]
14 Debtor)	
15 _____)	<u>Adv. Case No.: 20-80031</u>
16 MARK D. WALDRON, Chapter 7 Trustee))	
17 Plaintiffs,)	ANSWER OF DEFENDANT ANDREY
18 v.)	KUZENNY TO COMPLAINT FOR DAMAGES
19 PERKINS COIE, LLP, et al.)	
20 Defendants.)	
21 _____)	

22 COMES NOW Defendant ANDREY KUZENNY (hereinafter "KUZENNY"), by
23 and through counsel, and in Answer to Plaintiff's Complaint, states
24 and alleges as follows:

25 1. Defendant KUZENNY admits the allegations contained in
26 Paragraphs 1 and 37 of Plaintiff's Complaint.

27 2. Defendant KUZENNY has insufficient information upon which to
28 form a belief as to the truth of the allegations contained in

VERIFIED ANSWER

1 paragraphs 2, 6, 7, 12, 13, 18 through 33, 35, 36, 38, 40 through 62,
2 64, and 65 of Plaintiff's Complaint, and therefore denies the same.

3 3. Defendant KUZENNY invokes his privilege against
4 self-incrimination as guaranteed by the Fifth Amendment of the
5 Constitution of the United States as to allegations contained in
6 paragraphs 8 through 11, 14 through 17, 34, 39, 63 and 66 of
7 Plaintiff's Complaint and therefore cannot admit nor deny such
8 allegations.

9 4. KUZENNY is not a named Defendant in the First, Second and
10 Thrid Causes of Action and, therefore, is not responding to Paragraphs
11 67 through 86 of Plaintiff's Complaint.

12 13 **AFFIRMATIVE DEFENSES**

14 1. Plaintiff's Complaint, and each purported cause of action
15 therein, fail to state a cause of action upon which relief can be
16 granted against Defendant KUZENNY.

17 2. Plaintiff's Complaint, and each purported cause of action
18 therein, is barred by the doctrines of acquiescence, waiver, laches
19 and estoppel.

20 3. Defendant KUZENNY acted reasonably and in good faith at all
21 times material herein based upon all relevant facts and circumstances
22 known by it at the time it so acted and, accordingly, Plaintiff is
23 barred from recovery for this action and each purported cause of
24 action asserted therein.

25 4. Defendant KUZENNY is informed and believes, and on that
26 basis alleges, that the matters complained of in Plaintiff's
27 Complaint, and in each purported cause of action therein, were
28

1 proximately caused by the acts or omissions of third parties other
2 than Defendant KUZENNY.

3 5. Defendant KUZENNY is informed and believes, and on that
4 basis alleges, that Plaintiff has failed and continues to fail to take
5 any steps reasonably necessary to mitigate its damages, if in fact it
6 has sustained any damages, which Defendant KUZENNY denies.

7 6. The Complaint, and each purported cause of action therein,
8 fails to state facts sufficient to allege the existence of or the
9 breach of any legal duty or obligation, if any, owed by Defendant
10 KUZENNY to Plaintiff.

11 7. Defendant KUZENNY is informed and believes, and on that
12 basis alleges, that any damage or injuries sustained by Plaintiff, if
13 any there be, are a consequence of a known risk voluntarily and
14 knowingly undertaken by Plaintiff and Plaintiff is barred from
15 recovery thereof.

16 8. Even if Defendant KUZENNY be found to have acted as alleged
17 in the Complaint, each purported cause of action therein, such
18 conduct was justified, excused and/or privileged.

19 9. Defendant KUZENNY at all times material to the Complaint
20 herein acted in good faith.

21 10. Plaintiff failed to perform the required conditions
22 precedent as to each purported cause of action in the Complaint.

23 11. The Complaint, and each purported cause of action therein,
24 fails to state facts sufficient to constitute a claim against
25 Defendant KUZENNY for costs and/or fees.

26 12. An award of exemplary or punitive damages in this case would
27 be violative of the due process clause of the United States
28 Constitution, including for the reasons that such damages are awarded

VERIFIED ANSWER

Page 3 of 4

1 in a vague and arbitrary manner, without any upper limit, and without
2 the application of proper standards and guidelines. Any award of
3 exemplary or punitive damages in excess of or disproportionate to
4 legislatively established punishments for similar conduct if further
5 vocative of the due process protections of the United States
6 Constitution.

7
8 WHEREFORE, Defendant KUZENNY prays that this Court deny
9 Plaintiff's Complaint in its entirety, grant judgment in favor of
10 Defendant KUZENNY, grant Defendant KUZENNY its costs incurred herein,
11 and for any other relief that this Court deems just and proper.

12
13 Dated: January 7, 2021

Respectfully Submitted,
GUROVICH, BERK & ASSOCIATES
By: /s/ Elon Berk
Elon Berk, Esq.
Attorney for Defendant
Andrey Kuzenny

14
15
16
17
18 **VERIFICATION**

19 I, Andrey Kuzenny, hereby verify and declare under penalty of perjury
20 that I have read the foregoing Verified Answer to Verified Complaint
21 and know the contents thereof, and that the matters contained in the
22 Answer are true to the best of my knowledge, information, and belief.
23 I hereby verify and declare under penalty of perjury that the
24 foregoing is true and correct.

25
26 Date: January 7, 2021

AK
Andrey Kuzenny

27
28

VERIFIED ANSWER

Page 4 of 4